

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

B.P.J. by her next friend and mother, HEATHER JACKSON,

Plaintiff,

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

Defendants,

and

LAINY ARMISTEAD,

Defendant-Intervenor.

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

FIRST SUPPLEMENTAL DECLARATION OF LOREE STARK

I, Loree Stark, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am the Legal Director of the ACLU of West Virginia and counsel of record for Plaintiff B.P.J., with her next friend and mother, Heather Jackson. The following is true of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.

2. I submit this supplemental declaration in support of Plaintiff B.P.J.'s consolidated opposition to Defendants' motions for summary judgment.

3. Attached to this declaration are true and correct copies of the documents listed in the table below.

4. Incorrect versions of Exhibits 37 and 38 were attached in the Declaration of Loree Stark filed on April 21, 2022. (Dkt. No. 289-38; Dkt. No. 289-39.) Corrected versions of those exhibits have been attached to this supplemental declaration as Exhibits 47 and 48.

| Exhibit | Description |
|----------------------------|--|
| Discovery Responses | |
| 45 | Resps. to Pl's First Set of Interrogatories to WVSSAC, November 22, 2021 |
| 46 | Defendant-Intervenor's First Supplemental Disclosures, February 11, 2022 |
| Other Documents | |
| 47 | Transgender Policy, WVSSAC Board of Directors, WVSSAC000008 |
| 48 | The Rules and Regulations of the West Virginia Secondary Schools Activities Commission, August 2021-2022, WVSSAC000012-26 |
| 49 | USA Rugby, Transgender Athletes and Participants, https://www.usa.rugby/transgender/ (last visited May 12, 2022) |
| 50 | UK Sports, Guidance for Transgender Inclusion in Domestic Sport, https://equalityinsport.org/docs/300921/Guidance%20for%20Transgender%20Inclusion%20in%20Domestic%20Sport%202021.pdf (last visited May 12, 2022) |
| 51 | UK Sports, Frequently Asked Questions, https://equalityinsport.org/docs/300921/Frequently%20Asked%20Questions.pdf (last visited May 12, 2022) |
| 52 | World Rugby, Transgender Women Guidelines, https://www.world.rugby/the-game/player-welfare/guidelines/transgender/women (last visited May 12, 2022) |
| 53 | IQA Rulebook, https://iqasport.cdn.prismic.io/iqasport/86da705a-b6b3-4a1f-8f49-e1d5097ba4c2_Rulebook-20.pdf (last visited May 12, 2022) |
| 54 | International Quidditch Association, What is Quidditch? https://iqasport.org/what-is-quidditch (last visited May 12, 2022) |

| Exhibit | Description |
|-----------------------------|---|
| 55 | New IAAF rules for transgender athletes (Oct. 15, 2019) https://www.smh.com.au/sport/athletics/new-iaaf-rules-for-transgender-athletes-20191015-p530sx.html (last visited May 12, 2022) |
| 56 | Ex. 73 of Deposition Transcript of Gregory A. Brown, Ph.D. (March 25, 2022), Brown GA. The Olympics, sex, and gender in the physiology classroom. Physiology Educators Community of Practice, managed by the Education group of the American Physiological Society (August 18, 2021), https://blog.lifescitrc.org/pecop/2021/08/18/the-olympics-sex-and-gender-in-the-physiology-classroom/ (last visited May 12, 2022) |
| 57 | Bhargava, A. et al. Considering Sex as a Biological Variable in Basic and Clinical Studies: An Endocrine Society Scientific Statement. Endocr Rev. 42:219-258 (2021) |
| 58 | Am. Psych. Assoc.: Diagnostic & Statistical Manual of Mental Disorders 829 (5th ed. 2013) |
| Party Correspondence | |
| 59 | Email from K. Kang, December 20, 2021 |
| 60 | Email from K. Kang, February 21, 2022 |
| 61 | Email from C. Holcomb, February 25, 2022 |
| 62 | Letter to Defendant-Intervenor from Plaintiff, March 17, 2022 |
| 63 | Email from C. Holcomb, March 23, 2022 |

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 12, 2022

/s/ Loree Stark
Loree Stark

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CHARLESTON DIVISION

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SECONDARY SCHOOL ACTIVITIES
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CERTIFICATE OF SERVICE

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I, Loree Stark, do hereby certify that on this 12th day of May, 2022, I electronically filed a true and exact copy of the foregoing document with the Clerk of Court and all parties using the CM/ECF System.

/s/ Loree Stark

Loree Stark

West Virginia Bar No. 12936